

FILED

UNITED STATES COURT OF APPEALS

NOV 18 2015

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LYCURGAN, INC., a California
Corporation, DBA Ares Armor,

Plaintiff - Appellant,

v.

TODD JONES, in his official official
capacity as Director of the Bureau of
Alcohol, Tobacco, and Firearms
Enforcement,

Defendant - Appellee.

No. 15-55228

D.C. No. 3:14-cv-01679-JLS-BGS
Southern District of California,
San Diego

ORDER

Before: REINHARDT, W. FLETCHER, and N.R. SMITH, Circuit Judges.

We conclude that the December 17, 2014 order and “judgment” dismissing appellant’s claim without prejudice was not intended to be a final and appealable order. *See Montes v. United States*, 37 F.3d 1347, 1351 (9th Cir. 1994) (the “First Judgment” dismissing an action without prejudice “was not intended to be a final and appealable order” where the district court permitted plaintiff to file an amended complaint “*after* entering the First Judgment”) (emphasis in original).

Accordingly, we dismiss this appeal for lack of jurisdiction.

DISMISSED.

SL/MOATT